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DRAFT REPORT OF THE TRADE AND DEVELOPMENT BOARD ON THE FIRST PART OF ITS THIRTY-NINTH SESSION

Held at the Palais des Nations, Geneva,
from 28 September to 14 October 1992

Rapporteur: Mr. Banmali Prasad Lacoul (Nepal)

Addendum

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Chapter IX

OTHER MATTERS IN THE FIELD OF TRADE AND DEVELOPMENT

(Agenda item 10)

A. Export promotion: report of the Joint Advisory Group on the International Trade Centre UNCTAD/GATT on its twenty-fifth session (agenda item 10 (a))

1. Since the Joint Advisory Group on the International Trade Centre UNCTAD/GATT had not held its twenty-fifth session by the time of the current session of the Board, there was no report before the Board for consideration. Under this sub-item, the Board discussed the status and current situation of the International Trade Centre UNCTAD/GATT (ITC).

2. The spokeswoman for the Latin American and Caribbean Group (Brazil) said that it would be incompatible with the concept of good governance to allow the killing by neglect of a major trade-oriented technical assistance institution which up until now had been financially viable. While her Group recognized that ITC needed managerial, operational and technical reform, this could not be done without significant changes to its current structure and particularly without a new Executive Director. The countries members of her Group were highly concerned that the situation regarding ITC remained unresolved. The current stalemate was bound to lead to further a serious deterioration in the effectiveness of ITC. With reference to the options under consideration in GATT, her Group believed it was important to preserve the present GATT-UNCTAD partnership. Placing ITC under the exclusive responsibility of GATT could seriously jeopardize its resource base, especially UNDP funding. She noted that ITC, UNCTAD and GATT all had roughly equivalent budgets in terms of total expenditures; nevertheless ITC was half the size of UNCTAD and four-fifths the size of GATT in terms of staff. The levels and numbers of its senior managers were already significantly below those of its parent organizations. It had also been pointed out that a number of beneficiary countries were not members of GATT. One fundamental consideration was that ITC was not a full United Nations institution and it should therefore not be so classified.

3. She recalled that increased trade was a major engine of economic growth and that a large number of countries required a great deal of technical assistance in this area. Furthermore, trade expansion was a goal that was in the interest of the global economy. ITC had a clear mandate to assist in this

process. Decisions made with respect to the level of the post of the Executive Director of ITC had to be linked to the overall mandate that governments wished to see fulfilled by ITC. It was imperative to agree now on a final solution to a state of affairs which had lasted for more than a year. The current situation was operationally dysfunctional for the organization. Her Group would not support any interim solution, and it proposed that ITC's status quo be fully maintained, as provided for in the General Assembly resolution of 1979. An Executive Director, jointly agreed by UNCTAD and GATT, should now be confirmed at the ASG level - or its equivalent - for a three-year period.

4. Her Group believed that a decision that would have a profound effect on ITC's performance should not be made in a vacuum, given the tenuous relationship of the institution with the United Nations system. The restructuring of the United Nations system, including its legally affiliated bodies, should be allowed first to take place. In the absence of a thorough and intergovernmentally agreed restructuring of the United Nations system, a decision to apply such changes to a body with a completely distinct legal status would be basically irresponsible. The status quo her Group was arguing for could eventually be re-assessed once the United Nations restructuring had been thoroughly digested by governments. It was thus essential that the Board now take a decision on this issue which would be referred for consideration by governments at United Nations Headquarters.

5. The representative of Norway, speaking on behalf of the Nordic countries Denmark, Finland, Norway and Sweden, said that the Nordic countries had invested much time, effort and financial resources in ITC because they appreciated the good work done by the Centre in promoting the developing countries' export activities in a practical way. ITC's assistance in this field would grow in importance with the increasing market orientation being adopted by many developing countries. The Nordic countries were therefore seriously concerned to see that the Centre had been left drifting without the appointment of new management since January 1992. This situation was grave and had already had serious consequences for ITC; a solution must therefore be found as a matter of urgency if the future of the Centre was not to be put at stake.

6. In order to attract the quality of leadership necessary, the Nordic countries held that the Executive Director should be appropriately remunerated, in line with the attendant responsibilities, and that the period of tenure should be long enough to allow him or her to follow through necessary changes in policy and practice.

7. As for the status of the Centre, he wished to see ITC continue to function as a joint body of UNCTAD and GATT. Cooperation should indeed be even closer so that ITC's work could benefit fully from impulses from both organizations. UNCTAD and GATT must also have a say in the fundamental organizational matters of ITC, and in this regard the views of GATT were important.

8. The spokesman for the Asian Group (Bangladesh) expressed the deep concern of his Group at the prospect of diminished status for ITC at a time when the Asian countries were expecting on the contrary that the Centre would be strengthened to enable it to discharge its responsibilities as a focal point for technical assistance and cooperation in promoting the developing countries' exports. He recalled that it was by a decision of the GATT Contracting Parties and the General Assembly in 1979 that the post of Executive Director had been upgraded to the ASG level. Under this raised status, ITC was rendering excellent services to the developing countries to the satisfaction of the donor community. The LDCs were important beneficiaries of the high-quality services of ITC.

9. The proposal to downgrade the post of Executive Director to the level of D.2 and to offer a contract of only one year's duration would eventually create a leadership crisis: a Director with that status would find it difficult to provide dynamic leadership and to mobilize the funds needed by the Centre to fulfil its growing role. At a time when they were undergoing extensive structural adjustment and endeavouring to promote external trade, the developing countries might end up as clear losers.

10. Against this background, the Asian Group called for the post of Executive Director of ITC to be maintained at its present ASG level. As for the options now being weighed for the future institutional status of the Centre, his Group felt strongly that the present GATT-UNCTAD partnership should be continued. He urged the Board to take a considered decision on these matters that would safeguard the interests of the developing countries. If necessary, the outcome could be referred to the General Assembly for reconsideration.

11. The spokesman for the African Group (Egypt) said that ever since its establishment ITC had functioned as a link organization between UNCTAD and GATT to assist all countries, and especially the developing countries, to improve their export capacities. Thanks to ITC, many developing countries, including those that were not members of GATT, had been able to benefit from technical assistance programmes, since ITC provided its assistance to developing countries on an equal footing with other countries. Regarding the post of the Executive Director of ITC and the question of whether ITC should be retained as a joint UNCTAD/GATT body or function under the sole responsibility of GATT, the African Group felt that the international community should work towards the achievement of the following objectives:

(a) ITC should remain a joint UNCTAD/GATT organization, especially in view of a new role conferred by the Cartagena Commitment and the fact that Ad Hoc Working Groups had been established on trade efficiency and on expansion of trading opportunities for developing countries.

(b) In order to enable ITC to carry out its tasks as quickly as possible, it was necessary to ensure that the Centre was again operating fully at the earliest date, and this was particularly in the interests of the developing countries. To this end, a joint consultative group should be established which would seek consensus on how to ensure that the Centre could resume its functions, particularly the enhancement of the export capacity of developing countries. The African countries had been making great efforts on their own, and they placed much reliance on this assistance.

(c) Donor countries and UNDP should step up their financial contributions with a view to promoting ITC's activities in mobilizing developing countries' exports.

12. The representative of Poland said that his country was deeply concerned at the prolonged crisis affecting ITC. He fully agreed that ITC played a unique role in technical support for the developing countries in the promotion of their exports. The Centre was in fact an excellent instrument for the practical implementation of several aspects of UNCTAD's activities. The so-called "enterprise approach" - an initiative launched some years ago - was a good example of ITC's responsiveness to the needs of a changing world, offering as it did a practical answer to two of the most important issues facing developing countries and countries in transition, namely the restructuring of public and private enterprises and environmental protection.

13. For the countries of Central and Eastern Europe, the practical assistance furnished by ITC in the restructuring of their economies meant the transfer of market-economy principles and market-like behaviour into the post-communist business vacuum. This assistance was of essential importance to the success of the transformation of these countries.

14. For all these reasons, his delegation wished to see a rapid and final solution of the current impasse in ITC and he fully supported the proposal of the Latin American and Caribbean Group that the status of ITC be maintained in accordance with the relevant General Assembly resolution adopted in 1979 and that the matter be referred for further consideration by Governments at United Nations Headquarters.

15. The representative of the United States of America stated that her delegation shared the concern which had been expressed by others on this problem, which had been going on for more than a year. She emphasized that the delay in appointing to the post of Executive Director of ITC in no way called in question the high value of the work carried out by the Centre. Rather it was the system-wide reforms now being undertaken in the United Nations that were holding up a solution to the ITC leadership problem. These were difficult times for United Nations, which was conducting a major reform in the organization of its work. There was a need to adjust the structures to the realities of available resources and staffing and to make the best use of both. In carrying out these reforms one must wring inflation out of the United Nations. As things stood, the United Nations system still was not responding to these imperatives as well as it could. Her delegation was keen to see the money available to the United Nations used to increase the well-being of all the peoples of the world. It was important to channel United Nations funds into the field operations where it could make a difference to people's lives. So far, one could not say that the most effective use had been made of available resources.

16. Observing that the United Nations Secretary-General had initiated a realignment in the New York secretariat in which he had already eliminated a number of senior posts, she set this question of the ITC directorship in the context of the larger United Nations reform process. The United States Government did not at this point wish to gainsay the work of the Secretary-General. While she could understand the impatience expressed by

other delegations, she argued that the Secretary-General needed more time and a free hand to deal with the matter. In any event, her delegation could not support the proposal by the Latin American Group that the post of Executive Director of ITC be confirmed at ASG level for a three-year period.

17. The spokeswoman for the Latin American and Caribbean Group (Brazil) said that the concerns expressed by the representative of the United States with respect to the financial viability of the United Nations system were certainly shared by all delegations. Yet she was very concerned at the unbalanced way in which these principles were being applied against those who appeared to enjoy less protection. It was public knowledge that a certain high-level post had recently been created at United Nations Headquarters. It seemed therefore that different principles were applied depending on circumstances.

18. The representative of Chile, responding to the United States statement, was surprised at the suggestion that the economic and social aspects of United Nations system had not been deemed effective by the member countries. In his view, the United Nations and especially UNCTAD had for years carried out work in which scarce resources had been used to improve the economies of the developing countries in Africa, Asia and Latin America. UNCTAD had also played an important role in the technical assistance activities of ITC. He was also surprised to find that, notwithstanding the agreement already reached on the level of the post for the Executive Director, no further action had been taken because there was opposition in New York to confirming the post at the level of ASG. This post was of such importance to the developing countries that they could not accept that it be classified at a lower level. It was therefore not acceptable for the United States to suggest that the Secretary-General of the United Nations should be left to settle the matter on his own. The matter was of concern to all developing countries and it was therefore not up to any one person in the system to decide. He reiterated that the developing countries did not wish to see ITC decline through the degrading of the Executive Director's post.

19. The representative of the United Kingdom, speaking on behalf of the European Community and its member States, stated that, although the Community had not yet discussed this question with a view to achieving a common position, it was concerned at the stalemate which had occurred in appointing a new Executive Director. ITC was a very valuable organization and she

therefore hoped that there would be a rapid solution to the current staffing problems so that the Centre could effectively get on with its work. Such a solution should be sought through patient discussion and quiet diplomacy and not through confrontation among different organizations.

20. The representative of Cuba said that the serious work done by the ITC was well known and he supported the statements made by the Latin American Group and Chile concerning the post of Executive Director. In his view, this particular problem should be set in the context of the financial crisis that had beset the United Nations for the past seven years, and the Secretary-General of the United Nations should move quickly to remedy this financial crisis through consultation with the main contributors.

21. The representative of Malaysia shared the concern felt by other delegations at the prolonged stalemate in the appointment of a new Executive Director. While he appreciated the restructuring argument, he considered that the situation in ITC was different in that ITC was and would continue to be the joint responsibility of UNCTAD and GATT. The status of the Executive Director of ITC must take account of the kind of budget and level of staffing which had built up over the years and which had enabled the Centre to carry out effectively and efficiently many tasks in favour of developing countries. The current stalemate might well have an adverse effect on the morale of ITC staff. The concern felt was made all the greater by the fact that some donors were currently reluctant to commit further contributions to ITC programmes. He therefore hoped that a rapid solution would be found to this problem.

22. The representative of Peru reiterated the view of his delegation that ITC was very useful in helping the developing countries with their development projects and that its activities should be increased. Peru also considered that the Centre should be maintained under the joint responsibility of UNCTAD and GATT, which would enable it to act efficiently and coherently. He acknowledged that some reform might be necessary in certain management areas, but this could be handled in the Joint Advisory Group. His delegation was in favour of maintaining the present level of the Executive Director's post as well as the period of appointment. Finally, he proposed that the Board should endeavour to reach consensus on this subject and to transmit any such agreement to New York in official form.

23. The representative of Italy expressed support for the European Community statement. With regard to the proposal made by Peru that the Board should take action which would be communicated to New York, he recalled that the regrettable stalemate over the filling of the Executive Director's post had originally been due to the unrealistic request to keep the post at the level of ASG and to differences between delegations in Geneva and New York concerning the level of the post. There was therefore a danger that by accepting the Peruvian proposal the present stalemate could be protracted and the efficiency of ITC further reduced. Noting that there was already a majority emerging in GATT that was in favour of an honourable compromise, he urged the Board to reconsider the procedure proposed by Peru.

24. The representative of Argentina expressed his delegation's support for the proposal made by Peru, and said that the Board must make a recommendation on this important issue.

25. The representative of Germany, commenting on recent developments in GATT, including the idea that ITC might be incorporated in GATT, said that a group of countries which had met in GATT on the previous day - without, however, the participation of the United States and Canada - had agreed that ITC should continue to function as a joint body of UNCTAD and GATT and that the grading of the Executive Director post at the D-2 level should be accepted as inevitable, on the condition that the contract would be for a period longer than one year. Thus an area of compromise was being reached.

26. The representative of China said that the Chinese delegation was greatly concerned at the fact that there had been no ITC annual report under this item. This showed that the normal work of the Centre had been badly affected. She therefore hoped that, through the joint efforts of all the parties concerned, the structural reforms of ITC could be completed as soon as possible so that it could continue to provide technical assistance to the developing countries in a normal working manner.

27. The representative of Switzerland recalled that her country had always supported ITC positively. Her delegation would have preferred to see the Executive Director post maintained at the ASG level, but it now seemed that a consensus was emerging for classification at D-2 and her delegation could accept such a decision. At the same time, she was surprised to find that a D-2 grading could be accepted for the short term without any discussion on how to improve existing relationships in order to avoid similar conflicts in

future, whether in the choice of an Executive Director or with regard to other aspects of ITC. In these circumstances, GATT might come to feel that it did not have a say in ITC's affairs and might eventually be discouraged from making its due contribution. Moreover, certain delegations, seeing that the UNCTAD/GATT partnership which constituted the force of ITC was falling apart, might be discouraged from supporting the Centre as actively as in the past.

28. The representative of Canada recognized the good work which had been done by ITC over the years. While he supported efforts to reform and reorganize the United Nations system, he did not feel that ITC should be taken in isolation as a basis for that reform. It was with this in mind that his delegation agreed very strongly with the statement by the Latin American and Caribbean Group and comments made by individual members of that Group. None the less, confrontation with the Secretary-General on this matter would be unhelpful. Rather he supported the process of careful dialogue as had been suggested by the spokesman for the European Community. He pointed out that in any discussion relating to matters of interest to ITC, GATT represented half the equation and any solution must therefore be coordinated with GATT. Canada would work within the UNCTAD and GATT context to resolve this situation.

Action by the Board

[To be completed as appropriate]

B. Progressive development of the law of international trade: twenty-fifth annual report of the United Nations Commission on International Trade Law (agenda item 10 (b))

Action by the Board

29. At its 809th meeting, on 29 September 1992, the Board took note of the report of the United Nations Commission on International Trade Law on its twenty-fifth session (A/47/17), which had been circulated to the Board under cover of a note by the UNCTAD secretariat (TD/B/39(1)/6).